

Application No. 10/630,555
Reply to Final Office Action of December 28, 2006

Docket No.: NY-LUD 5298-US5-DIV

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REMARKS

Entry of the amendment is requested.

The amendment follows telephone discussions with Examiners Landsman and Hisson. Applicants proposed amending claim 32 to refer to the protein encoded by SEQ ID NO: 1. It is believed the amendment is proper, since broader claim 32 raised no prior art issues, so narrower claim 34 should not either. Further, claim 34 does not include language the Examiner believed was problematic, such as "activin like." Hence, claim 34 is believed, to least reduce the issues in this case, and the amendment should be entered. It is believed that there are no issues with respect to claim 35, which is identical to prior claim 33.

Applicants would like to draw the Examiner's attention to page 29, lines 25-end, showing that all ALKs have utility as receptor for TGF- β 1. Page 32, lines 33-end establish that "All ALKs appear to bind activin A in the presence of Act R-II." Hence, dual activities are described to establish utility.

Applicants previously referred to issued U.S. Patents No. 6,982,319 and 6,331,621 as providing support for the language used and for utility. The Examiner dismissed this argument, stating:

"It is noted that these patents cited by Applicants as having utility were largely examined prior to 1/15/01."

With all due respect, this is not correct.

U.S. Patent No. 6,982,319 is based on an application filed on July 11, 2001. The application leading to U.S. Patent No. 6,331,621 was filed prior to January 15, 2001, but examination began on April 5, 2001. Hence, both cases were subject to the same standards that are applied now.

In view of the foregoing, reconsideration of the rejections and allowance of this application are believed proper and are urged.

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Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0624, under Order No. NY-LUD 5298-US5-DIV (10309270) from which the undersigned is authorized to draw.

Dated: 3/28/07

Respectfully submitted,

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